

AUG 18 2006

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34456**REMARKS**

The Office Action mailed March 22, 2006 has been received and carefully considered. Reconsideration of the currently pending claims is respectfully requested.

Anticipation rejection of claims 1-3 and 5-6

At page 2 of the Office Action, claims 1-3 and 5-6 are rejected under 35 U.S.C. § 102(e) over U.S. Publ. No. 2003/0060746 ("Mark"). This rejection is respectfully traversed. In addition to other novel elements, Claim 1 recites a first burstable membrane enclosing a first cavity and a second burstable membrane enclosing a second cavity. These elements are not disclosed by Mark.

Mark discloses a device having two chambers, with each chamber containing a frangible glass ampule. *Mark*, FIG. 3, [0024]. A sponge is used to enclose each of the two chambers. *See id.* The sponges are used to trap broken glass and to allow liquids to freely pass. *Id.*, [0030]. The sponges are not burstable membranes. The liquids contained in each chamber are released by breaking a glass ampule. *Id.*, [0026]. The glass ampule does not enclose a cavity. The glass ampule is not burstable. To burst is to come open – especially from internal pressure. There is simply no way to increase the internal pressure of the Mark ampule. It must be broken into pieces.

Mark completely fails to disclose a *burstable* membrane, as recited in claim 1. Moreover, there is nothing in Mark to suggest any combination with a burstable membrane. As such, Mark cannot form the basis of an obviousness rejection either.

Mark fails to disclose each and every element of claim 1. Claims 2-3 and 5-6 depend from claim 1. Accordingly, Mark fails to disclose each and every element of these claims, at least by virtue of their dependence on claim 1. In addition, these claims recite additional novel elements. For example, claim 3 recites a crimp in the support member that at least partially isolates the first cavity from the second cavity. According to the Office Action at page 2, item 36 of Mark discloses this element. However, Mark clearly identifies item 36 as a "wall or plug",

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not a crimp in the support member. *Id.*, [0024]. Accordingly, Mark fails to disclose each and every element of claim 3.

Claim 6 recites that the support member defines a mouth of the first cavity at a first distal end of the support member and a second mouth of the second cavity at a second distal end of the support member, the applicator substantially encompassing the mouth. These elements are not disclosed by Mark. As illustrated in FIG. 3 of Mark, the element identified by the Office Action as the support member, hollow body 31, does not have a mouth at a distal end that is substantially encompassed by an applicator. The applicators disclosed by Mark are smaller than the hollow body 31, and do not encompass an end of the hollow body. *Id.*, FIG. 3. Accordingly, Mark fails to disclose each and every element of claim 6.

Anticipation rejection of claims 7, 9-10, 13-16, 19-20, and 22-31

At page 3 of the Office Action, claims 7, 9-10, 13-16, 19-20, and 22-31 are rejected under 35 U.S.C. § 102(e) over U.S. Pat. No. 6,811,341 ("Crane"). This rejection is respectfully traversed.

Claim 7 recites removing a single use application system comprising a support member and a porous applicator tip from a package and disposing of a support member after a single use. These elements are not disclosed by Crane. Although the Office Action indicates that Crane discloses these elements at col. 6, line 42 – col. 7, line 5, the Applicants respectfully submit that the cited passage does not disclose removing a single use application system from a package, nor does the cited passage disclose disposing of a support member after a single use. Moreover, as amended, Claim 7 recites: "operating a delivery mechanism to burst a membrane and to initiate release of a substance." Like the previously discussed limitations, Crane fails to disclose this step. As such, Crane fails to disclose each and every element of claim 7.

Claims 9-10 depend from claim 7. Thus Crane fails to disclose each and every element of these claims, at least by virtue of their dependence on claim 7. In addition, claims 9-10 recite additional novel elements.

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With respect to claim 13, the claim recites an expulsion orifice configured to release the substance into an applicator portion of the system that contains an initiator operable to begin transition of a monomer to a polymer. These elements are not disclosed by Crane. Crane discloses a cavity containing two chambers, with each chamber containing a chemical compound or catalyst. *Id.*, FIG. 11. By depressing a plunger, the two substances in the chambers are combined and delivered to an applicator tip. *Id.*, col. 11, lines 28-36. Accordingly, Crane discloses two substances enclosed *in a device cavity*. Neither of the substances in the Crane system are released *into an applicator portion of the system* that contains an initiator operable to begin transition of a monomer to a polymer. Accordingly, Crane fails to disclose each and every element of claim 13.

Claims 14-16 depend from claim 13. Accordingly, Crane fails to disclose each and every element of these claims, at least by virtue of their dependence on claim 13. In addition, claims 14-16 recite additional novel elements.

With respect to claim 19, the amended claim recites locating a first substance in a first cavity at least partially defined by a support member and locating a second substance in a second cavity at least partially defined by the support member. The claim also recites that the first substance being encased by a burstable material. These elements are not disclosed by Crane. Crane discloses providing an applicator that is partially assembled. *Id.*, col. 6, lines 28-41. To assemble the applicator, the user can insert a cartridge into the applicator. *Id.* However, Crane discloses that the cartridge includes both a first substance and a second substance. *Id.*, col. 5, lines 7-29. Thus, Crane does not disclose locating a first substance in a first cavity at least partially defined by a support member and locating a second substance in a second cavity at least partially defined by the support member. Instead, Crane discloses that these substances are already located in the cartridge prior to assembly of the applicator. *Id.* Accordingly, Crane fails to disclose each and every element of claim 19.

Claims 20 and 22-27 depend from claim 19. Accordingly, Crane fails to disclose each and every element of these claims, at least by virtue of their dependence on claim 19. In addition, claims 20 and 22-27 recite additional novel elements.

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With respect to claim 28, the amended claim recites a burstable seal that keeps a first substance in its place and a package that protects a support member from contamination. Neither of these element are disclosed by Crain. While Crain does disclose that an applicator may be placed in a package (*Id.*, col. 10, lines 33-35) there is no disclosure that the package disclosed in Crain is operable to protect a support member from contamination. Accordingly, Crain fails to disclose each and every element of claim 28. Claims 29-31 depend from claim 28. Accordingly, Crane fails to disclose each and every element of these claims, at least by virtue of their dependence on claim 28. In addition, claims 29-31 recite additional novel elements.

Obviousness rejection of claim 4

At page 6 of the Office action claim 4 is rejected under 35 U.S.C. § 103(a) over Mark. This rejection is respectfully traversed. According to the Office Action, "It would have been obvious to one of ordinary skill in the art at the time of the invention to make one cavity larger than the other." *Office Action*, p. 6. "It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based," MPEP § 103(a). In this case, the Office Action does not cite any art or other evidence in support of its obviousness rejection. As such, the Examiner appears to be taking Official Notice. Applicants object to this taking of Official Notice and respectfully request that the Office provide art, if any, that supports the Office's position.

Obviousness rejection of claims 8, 11-12, 17, 21, and 32

At page 6 of the Office Action, claims 8, 11-12, 17, 21, and 32 are rejected under 35 U.S.C. § 103(a) over Crane in view of U.S. Pat. No. 6,595,940 ("D'Alessio"). This rejection is respectfully traversed. Claims 8 and 11-13 depend from claim 7, claim 17 depends from claim 13, claim 21 depends from claim 19, and claim 32 depends from claim 30. As explained above, Crane fails to disclose or suggest each and every element of claims 7, 13, 19, and 30. Further, D'Alessio does not remedy the deficiencies of Crane. Accordingly, Crane and D'Alessio, individually and in combination, fail to disclose or suggest each and every element of claims 8,

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11-12, 17, 21, and 32, at least by virtue of their respective dependence on claims 7, 13, 19, and 30. In addition, claims 8, 11-12, 17, 21, and 32 recite additional novel elements.

Moreover, at least with regard to claims 11, 12, 17, 21, and 32, the combination suggested by the Examiner would destroy the functionality of Crane. As such, the combination is improper. Crane is actuated by a plunger. The Crane device cannot be altered to become a two-sided device.

Obviousness rejection of claim 18

At page 7, claim 18 is rejected under 35 U.S.C. § 103(a) over Crane in view of Mark. This rejection is respectfully traversed. Claim 18 depends from claim 13. As explained above, Crane does not disclose or suggest each and every element of claim 13. Further, Mark does not remedy the deficiency of Crane. Accordingly, Crane and Mark, individually and in combination, fail to disclose or suggest each and every element of claim 18, at least by virtue of its dependence on claim 13. In addition, claim 18 recites additional novel elements.

In light of the foregoing, it is respectfully submitted that the rejections of the pending claims are improper. Withdrawal of the rejections and reconsideration of the claims is respectfully requested.

CONCLUSION

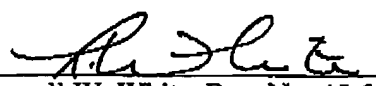
Should the Examiner deem that any further action by the Applicants would be desirable for placing this application in even better condition for issue, the Examiner is requested to contact Applicants' undersigned agent at the number listed below.

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The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-3797.

Respectfully submitted,

8/18/06
Date



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